IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2226 OF 2004

Plastage Industries & Anr. ...Petitioners

Versus

Shinde Enterprises & Anr. ...Respondents

.....

Mr.Ram B.Upadhyay, Petitioner in-person.

Mr.K.S.Patil i/b Mr.P.N.Joshi for Respondent No.1.

Mr.R.Y.Mirza, A.P.P. for Respondent No.2.

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**CORAM: A.M.KHANWILKAR, J.**

**DECEMBER 9, 2004.**

**P.C.**

1. Heard Mr.Ram B.Upadhyay, Petitioner in-person and Counsel for the parties. The only argument canvassed before this Court is that the statutory notice sent by the complainant is barred, as it was sent after the statutory period of 15 days. The fact about the intimation given to the complainant by his bankers about dishonour of cheque according to the complainant, was on 7th

December 2001. For the time being, therefore, we will have to proceed on the basis that, prima facie, the statutory notice issued on 21st December 2001 is issued within the statutory period. Counsel for the Applicant, however, relies on documents at Annexures A, B and C to contend that the memo regarding dishonour of cheque is dated 29th November 2001 and 3rd December 2001 respectively; and, therefore, it will have to be assumed that intimation about dishonour of cheque was made known to the complainant on those dates. However, the Certificate issued by the bankers on 26th March 2004 would indicate that the complainant collected the dishonoured cheque on 7th December 2001. The fact whether the complainant had received intimation regarding dishonour of cheque on 29th November 2001 or 3rd December 2001, as the case may be, as claimed by the Petitioner is a matter for trial. This being a disputed question, cannot be the basis to quash the criminal action.

2. Accordingly, this Petition should fail. The same is dismissed accordingly.

A.M.KHANWILKAR, J.